

REMARKS

Applicants would initially like to thank the Examiner for the allowance of claims 13-24 and 26-30.

Claims 13-24 and 26-36 remain in the application. No claims have been amended, added or cancelled.

Claims 31-36, of which claim 31 is independent, have been rejected under 35 U.S.C. § 103 as obvious over Warburton, et al. (“Warburton”) in view of Martensson. Applicants respectfully traverse the rejection.

Claim 31 as amended recites “considering a state of a cellular telephone associated with the cellular telephone number as busy, regardless of an actual state of the cellular telephone and regardless of a source of an incoming telephone call.” (emphasis on added language). The Examiner cites Warburton as the primary reference for its teachings of diverting an incoming call. As the Examiner concedes, however, Warburton does not disclose considering a state of the telephone as busy regardless of the actual state of the telephone as recited in claim 31.

What is lacking from Warburton is not provided by Martensson. Martensson teaches that a user can select numbers in a telephone directory and set the phone to a busy state in response to an incoming call from that telephone number. This differs from claim 31, which recites that the step of considering the a state of a cellular telephone associated with the cellular telephone number as busy regardless of a source of an incoming telephone call.

The Office Action states that this distinction is not relevant, arguing that Martinson sets the telephone state to busy based on the telephone number of the incoming call, not the source of the incoming call as recited in claim 31. Applicants disagree. The telephone number of the incoming call is technologically the identification code for the source of the call. By way of

example, Caller ID technology identifies a source of an incoming call by converting the telephone number into a name associated with that number, thereby identifying the source of the call. In such a context, a telephone number is a non-limiting example of a “source” of an incoming call as claimed.

This relationship can be demonstrated with a simple example. Suppose that a user of the Martensson device has an old girlfriend and a new girlfriend. Not wanted to speak with the old girlfriend, he uses the Martensson methodology to block all phone numbers (mobile, work, home) from the old girlfriend. In contrast, none of the phone numbers for the current girlfriend are blocked. According to the Martensson invention, if the phones associated with the blocked numbers are the “source” of the incoming call, the phone will respond with a busy signal. Yet if the new girlfriend calls, the call goes through. Martensson thus teaches selective application of a busy signal based on a source of the incoming call. This is the opposite of the claimed invention, in which the busy signal is received regardless of the source of the call. In the preceding example, the phone in claim 31 would be considered busy for incoming calls from both the old and new girlfriend.

Accordingly, claim 31 is patentably distinct over the applied art. Withdrawal of the rejection of claim 31 and allowance of the same is therefore requested.

Claims 32-36, which depend from claim 31, have been rejected on the same grounds as claim 31. For at least the reasons discussed with respect to claim 31, these dependent claims are likewise patentably distinct over the applied art.

In addition, claim 34 recites that the act of considering is in response to a request, and that the association of the primary diversion instruction is responsive (be it directly or indirectly) to that request. The call forwarding methodology of Warburton triggers in response to entry of a

specific code, but there is no teaching or suggestion that the code also triggers a state of considering a telephone as busy. Martensson is responsive to yet a different request. Even if the two were combined, the result would be a phone system with two separate features working off of two separate request commands. As noted above, neither Warburton nor Martensson teach or suggest any synergy that would lead to the use of the Martensson system as a universal call forwarding methodology that would rely upon a common request. For at least these additional reasons, claim 34, and claims 35 and 36 that depend therefrom, are patentably distinct over the applied art. Applicant notes that this argument was made in response to the prior Office Action, but the Examiner did not comment on the same in the current Office Action.

Accordingly, claims 32-26 are patentably distinct over the applied prior art. Withdrawal of the rejection of claims 32-36 and allowance of the same are therefore respectfully requested.

In view of the foregoing, the application is now in condition for allowance and a notice to that effect is earnestly solicited.

If a telephone conference would be of value, the Examiner is requested to call the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293 (15047.4014).

Should there be any questions, the Examiner is invited to contact the undersigned at the
below listed number.

Respectfully submitted,


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